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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,240	10/17/2003	Reinhold Opper	0275M-000769	2494

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EXAMINER

EDMONDSON, LYNNE RENEE

ART UNIT	PAPER NUMBER
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1725

DATE MAILED: 05/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/688,240

Applicant(s)

OPPER, REINHOLD

Examiner

Lynne Edmondson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-18,22,28,30,32 and 34-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 15-18 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-10,22,28,30,32 and 34-38 is/are rejected.
- 7) ☐ Claim(s) 11-14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### ***Claim Objections***

2. Claims 34-38 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 24 and 37 teach that the connecting element is a rivet, which has been disclosed in the parent claims 15 and 17. The presence of the rivet does not further limit the apparatus. The component (automotive vehicle) does not further limit the apparatus. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2, 4-9, 30 and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Banks et al. (USPN 6134940).

Banks teaches a processing method and device comprising a component processing device, a laser, a reference position or point and a connecting element (rivet) connected to the component (col 6 lines 15-25). The reference point can be a mark which matches the shape of the connector and can be changed or adjusted relative to other parts of the apparatus (col 6 line 45 – col 7 line 26, col 8 lines 65-67 and col 14 lines 19-45). It is noted that the vehicle processed does not further limit the apparatus. An apparatus capable of processing an airframe fuselage would typically be capable of processing an automobile.

5. Claims 1, 2, 4-9, 30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (US 2002/0104207 A1).

Smith teaches a processing method and device comprising a component processing device, a laser, a reference position or point and a connecting element (rivet or bolt) connected to the component (paragraphs 2 and 28). The reference point can be a hole or point of light which matches the shape of the connector and can be changed or adjusted relative to other parts of the apparatus (figures 2A-2F, 7A and 7B and paragraphs 44-46). It is noted that the vehicle processed does not further limit the

apparatus. An apparatus capable of processing an aircraft wing would typically be capable of processing an automobile.

6. Claims 1, 2, 4-5, 10, 30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al. (US 2002/0104207 A1).

Smith teaches a processing method and device comprising a component processing device (driver paragraph 1), a laser, a reference position or point and a connecting element (rivet or bolt) connected to the component (paragraphs 51 and 52). The reference point can be a hole or point of light which matches the shape of the connector and can be changed or adjusted relative to other parts of the apparatus. Light can be directed at an angle (figure 6, paragraphs 69 and 80). It is noted that the vehicle processed does not further limit the apparatus. An apparatus capable of processing an aircraft wing would typically be capable of processing an automobile.

7. Claims 1, 2, 4-9, 30 and 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Banks et al. (USPN 6073326).

Banks teaches a processing method and device comprising a component processing device, a laser, a reference position or point and a connecting element (rivet) connected to the component (col 3 lines 5-40). The reference point can be a mark which matches the shape of the connector (col 5 lines 49-51) and can be changed or adjusted relative to other parts of the apparatus (col 7 lines 6-17). It is noted that the vehicle processed does not further limit the apparatus. An apparatus capable of

processing an airframe fuselage would typically be capable of processing an automobile.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 22, 28, 30 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Pryor (USPN 5380978) in view of Lohrmann (USPN 5145278).

Pryor teaches a method of processing a component comprising producing a single light beam, positioning the light beam at a reference position, placing a mark (hole) on the component to be processed, positioning the light relative to the mark, processing the component and aligning a connecting element (bolt) with the component at the reference point and a reference position (hole) in the workpiece (col 34 lines 10-40). Positions are adjusted throughout the process (col 17 line 51 – col 18 line 16 and col 20 lines 16-55). Multiple tools are employed (col 1 lines 31-40). It is presumed that the bolt is connected using some type of device as is it is fixed and used as a reference. Bolt attachment is taught in col 34 lines 51-59. However there is no disclosure of a rivet in particular.

Lohrmann teaches connection of large members via any suitable fastener which includes rivets and bolts. No distinction is made (col 3 lines 15-43 and col 7 lines 34-51).

It would have been obvious to one of ordinary skill in the art at the time of the invention that a rivet is an obvious variation of a bolt and is known as such in the art.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 4, 10, 22, 28, 30 and 32 have been considered but are moot in view of the new ground(s) of rejection.

11. However, regarding applicant's argument that Pryor uses electro-optical guided positioning, it is noted that this system is used in combination with reference marks and a connecting element.

Regarding applicant's argument that Pryor does not teach connecting means or a connecting step, multiple tools are employed ( col 1 lines 31-40). It is presumed that the bolt is connected using some type of device as is it is fixed and used as a reference. Bolt attachment is taught in col 34 lines 51-59.

In response to applicant's argument that Pryor is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

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See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, bolts and rivets are obvious alternatives used in the same manner as fasteners. Applicant has argued that bolts are different because they require a nut, it is noted that instant claim 36 teaches a rivet nut. The weld stud of claim 36 is presumed to be similar to a bolt.

12. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a single laser beam) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

It is noted that the argument regarding the size of the apparatus is no longer relevant as the hand operable limitation has been removed from the most recent version claims.

Therefore the previously cited 102 rejection of claims 1, 2 and 6-9 as anticipated by Banks is restated.



***Allowable Subject Matter***

13. Claims 11-14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 15-18 are allowed.

***Conclusion***

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McClay et al. (USPN 4620656, laser positioning for riveting as conventional).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynne Edmondson whose telephone number is (571) 272-1172. The examiner can normally be reached on Monday through Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Lynne Edmondson  
Primary Examiner  
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*LE*  
*5/25/06*

LRE